

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

**RENE MARTINEZ AND
SILVIA MARTINEZ**

VS.

**ALLSTATE TEXAS LLOYDS AND
ALLSTATE VEHICLE AND
PROPERTY INSURANCE COMPANY**

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CIVIL ACTION NO. 7:16-cv-00521

JURY DEMANDED

DEFENDANT'S MOTION TO DISMISS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY**
AND ALLSTATE TEXAS LLOYDS, Defendants in the above-styled and numbered cause, and
files this Motion to Dismiss for Want of Prosecution pursuant to Federal Rule of Civil Procedure
41(b) and in support thereof would respectfully show unto the court as follows:

I.

This case involves a claim for wind and/or hail damage to Plaintiffs' home as a result of a
storm occurring on November 22, 2014. The lawsuit was filed on May 11, 2016 by Attorney R. Kent
Livesay. This case is currently set for jury selection and trial on September 6, 2017.

II.

Attorney for Plaintiffs, R. Kent Livesay and William McCarthy were allowed to withdraw as
counsel of record by court order on February 9, 2017. Defense counsel has attempted to reach the
Pro Se Plaintiffs via mail correspondence dated March 15, 2017 and April 25, 2017 requesting they
contact counsel if they intend to proceed with the case. Plaintiffs have not contacted defense counsel
concerning their pending case. No attorney has contacted defense counsel on behalf of the Plaintiffs
regarding representation of the Plaintiffs. It does not appear to Defendants that Plaintiffs, Rene

Martinez and Silvia Martinez wish to pursue this matter. Accordingly, Defendant requests that the claims of Rene Martinez and Silvia Martina be dismissed for want of prosecution.

WHEREFORE PREMISES CONSIDERED, Defendants, ALLSTATE TEXAS LLOYDS ALLSTATE VEHICLE AND PROPERTY CASUALTY INSURANCE COMPANY respectfully request that this Court set this matter for hearing and dismiss this case in its entirety with prejudice for want of prosecution.

Respectfully Submitted,

ROERIG, OLIVEIRA & FISHER, L.L.P.

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/r/ Rosemary Conrad-Sandoval

Rosemary Conrad-Sandoval
Texas Bar No. 04709300

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF CONFERENCE

I, the undersigned, hereby certify that I attempted to confer with Plaintiffs, Victor & Esmeralda Sandoval, by correspondence dated March 15, 2017 and April 25, 2017 regarding the pending motion and lawsuit. No response has been received.

/s/ Rosemary Conrad-Sandoval

ROSEMARY CONRAD-SANDOVAL

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Defendants' Motion to Dismiss for Want of Prosecution has been sent to Pro Se Plaintiff via regular mail and certified mail as follows:

Rene Martinez and Silvia Martinez
3304 Robin Ave.
Pharr, Texas 78577

on this 8th day of June, 2017.

/s/ Rosemary Conrad-Sandoval
ROSEMARY CONRAD-SANDOVAL